Form 12. **Application for Leave to File Second or Successive Petition**
(New, 7/1/02) **Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255**

FILED
AUG - 6 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

UNITED STATES COURT of APPEALS
for the NINTH CIRCUIT
95 Seventh Street
San Francisco, California 94103

Application for Leave to File Second or Successive Petition
Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255

Docket Number Civil No. 08-1127 W (POR)
(to be provided by court)

Petitioner's name CARL DWAYNE SIMMONS

Prisoner registration number CDC # E-96088

Address Calipatria State Prison, Calipatria (CAL) 7018 Blair Road, PO Box 5001, Calipatria 92233-5001

Instructions - Read Carefully

(1) This application, whether handwritten or typewritten, must be legible and signed by the petitioner under penalty of perjury. An original and five (5) copies must be provided to the Clerk of the Ninth Circuit. The application must comply with 9th Circuit Rule 22-3, which is attached to this form.

(2) All questions must be answered concisely. Add separate sheets if necessary.

(3) The petitioner **shall** serve a copy of this application and any attachments on respondent and must complete and file a proof of service with this application.

(4) The petitioner **shall** attach to this application copies of the magistrate judge's report and recommendation and the district court's opinion in any prior federal habeas proceeding under 28 U.S.C. § 2254 or § 2255 or state why such documents are unavailable to petitioner.

You *Must* Answer the Following Questions:

(1) What conviction(s) are you challenging?

THE COURT: Now, on the record, Felony 464148 against Carl Simmons.

(2) In what court(s) were you convicted of these crime(s)?

MUNICIPAL COURT, SANTA BARBARA JUDICIAL DISTRICT

COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

(3) What was the date of each of your conviction(s) and what is the length of each sentence?

HTA Preliminary examination was held on the above date and it appearing to the below named Judge that a felony violation of Count(s) as charged.

For questions (4) through (9), provide information separately for each of your previous §§ 2254 or 2255 proceedings. Use additional pages if necessary.

(4) With respect to **each** conviction and sentence, have you ever filed a petition or motion for habeas corpus relief in federal court under **28 U.S.C. § 2254** or **§ 2255**?

Yes ☐ No ☒

(a) In which federal district court did you file a petition or motion?

'NA.'

(b) What was the docket number? 'NA.'

(c) On what date did you file the petition/motion? 'NA.'

(5) What grounds were raised in your previous habeas proceeding?
(list all grounds and issues previously raised in that petition/ motion)

'NA.'

'NA.'

'NA.'

(6) Did the district court hold an evidentiary hearing? Yes ☐ No ☒

(7) How did the district court rule on your petition/motion? 'NA.'

☐ District court **dismissed** petition/motion? If yes, on what grounds?

☐ District court **denied** petition/motion;

☐ District court **granted** relief;
if yes, on what claims and what was the relief?

(Attach copies of all reports and orders issued by the district court.)

(8) On what date did the district court decide your petition/motion?
'NA.'

(9) Did you file an appeal from that disposition? Yes ☐ No ☒

(a) What was the docket number of your appeal? 'NA.'

(b) How did the court of appeals decide your appeal? 'NA.'

(10) State concisely each and every ground or issue you wish to raise in your current petition or motion for habeas relief. Summarize briefly the facts supporting each ground or issue.
ISBN 0-314-22864-0
ISBN 0-314-24130-2—deluxe
ISBN 0-314-22877-2

(11) For each ground raised, was it raised in the state courts? If so, what did the state courts rule and when?
'Close of business,'::'Court Interpreters Act', 'the King can do no wrong' ~~'carry concealed weapons.'~~ '11159.2 exemption.'

(12) For each ground/issue raised, was this claim raised in any prior federal petition/motion? (list each ground separately)
'Fresh pursuit' 'demand for money' [Confirmatio Chartarum].
U.S.—U.S. v. F/V Taiyo Maru, No. 28, SOI 600, D.C.Me., 365 F.Supp. 413.

(13) For each ground/issue raised, does this claim rely on a new rule of constitutional law? (list each ground separately and give case name and citation for each new rule of law)

'Larrison rule,' 'enforcement activities' 'under penalty of perjury.' 1 42 U.S.C.A. 12101 etseq. 2 See 49 U.S.C.A. § 1374 [Repealed]. 26 U.S.C.A. § 501 (c).

(14) For each ground/issue raised, does this claim rely on newly discovered evidence? What is the evidence and when did you discover it? Why has this newly discovered evidence not been previously available to you? (list each ground separately)

CARL D. SIMMONS
2 CRIM. B108576
SB No. 214013

(15) For each ground/issue raised, does the newly discovered evidence establish your innocence? How?

'Good cause': 0874341264/88 $00.00 + $.75. [Claims Against Counties or Cities, Etc.] Rev: COAT 03/97 (the Lanham Act) 'prison-delivery rule,' 'RapSheet'.

(16) For each ground/issue raised, does the newly discovered evidence establish a federal constitutional error? Which provision of the Constitution was violated and how?

'Quimby-Walsh Act.' [Oath of Office] 'Duplicate,' 'all occupants in care of the named tenant' (or a fair estimate). ISBN 0-87439-126-9 ISSN 0273-320X

(17) Provide any other basis for your application not previously stated.

54. Friedmann, Lissitzyn, and Pugh, International Law, p 971— Hodges Doctrine of Intervention, Princeton, 1915, p 58 et seq— 2 Oppenheim Int. L. 3d, 1920, p. 495.

Date: 07/29/08

Signature: Mr. Carl D. Simmons Jr. n.a.

Carl Simmons E-96088
CA State Prison
7018 Blair Rd
P.O. Box 5001
Calipatria, CA
92233-5001

B5-246

CERTIFICATE OF SERVICE

Case Name: ____________________ v. __________________________

Case No.: _____________

IMPORTANT: You must send a copy of ALL documents filed with the court and any attachments to counsel for ALL parties in this case. You must also file a certificate of service with this court telling us that you have done so. You may use this certificate of service as a master copy, and fill in the title of the document you are filing. Please list below the names and addresses of the parties who were sent a copy of your document and the dates on which they were served. Be sure to sign the statement below. You must attach a copy of the certificate of service to each of the copies and the copy you file with the court.

I certify that a copy of the _____________________________

(Name of document you are filing (i.e., opening brief, motion, etc.)

and any attachments was served, either in person or by mail, on the persons listed below.

____

Signature

Notary NOT required

Name Address Date Served

CERTIFICATE OF SERVICE

Case Name: ______________________ v. ____________________________

Case No.: ______________

IMPORTANT: 2 copies of this brief and any attachments must be sent to ALL parties in this case. Please list below the names and addresses of the parties who were sent a copy of your brief and the dates on which they were served. Be sure to sign the statement below.

I certify that a copy of this brief and any attachments was served, either in person or by mail, on the persons listed below.

____
Signature
Notary NOT required

Name	Address	Date Served